REMARKS

The Examiner has rejected Claims 1-32 under 35 U.S.C. 103(a) as being unpatentable over Hodges et al. (U.S. Patent No. 6,269,456) in view of Van Huben et al. (U.S. Patent No. 6,327,594). Applicant respectfully disagrees with such rejection.

With respect to independent Claims 1, 20 and 27, the Examiner has relied on Figures 4 and 7 along with the following excerpts from Hodges to make a prior art showing of applicant's claimed "whereby the central service computer and the user computer are each configured to send the new antivirus file to the other of the central service computer and the user computer to update the antivirus database" (see this or similar, but not identical, language in each of the foregoing claims).

> "Using means not shown in FIG. 3, central antivirus server 308 is kept up-to-date with the latest releases of antivirus files..." (Col. 7, lines 1-3)

> "**At step 410 antivirus update files are received by client computer 302 if any such files are sent by the central antivirus server 308.** If any such files are received, at step 412 the antivirus update files are loaded. If any such files are not received, at step 414 the antivirus update agent pauses for a period of time. Following step 412 or 414, as the case may be, the decision step 406 is again performed if the client computer is still turned on and operating, as reflected by a positive branch at step 416. The loading step shown at FIG. 4 may be an automatic loading step, wherein the downloaded files automatically self-execute and insert the updated file VIRUS_SIGNATURES.DAT into the appropriate directory of the client computer 302. Optionally, according to another preferred embodiment, the downloaded file may cause a "flash" notification to be seen by the user, advising the user that new antivirus files have been downloaded, and that the existing files currently being used in the antivirus application are now outdated. The user may then be given the option to (a) allow the downloaded files to be extracted and installed immediately, or (b) abey the installation process until a later time." (Col. 7, lines 45-63- emphasis added)

> "At step 614, central antivirus server 308 then **updates the subscriber database to reflect that user BJONES001234 has received the updated antivirus file.**" (Col. 9, lines 53-55- emphasis added)

> "FIG. 7 shows a diagram of a database 700 contained within central antivirus server 308. Database 700 comprises an antivirus database 702 and a subscriber database 704 as shown in FIG. 7. Shown in antivirus database 702 are virus signature files and executable program files which represent the latest available versions..." (Col. 9, lines 62-67)

Applicant respectfully asserts that the above excerpts from Hodges simply do not teach "whereby the central service computer and the user computer are each configured to send the new antivirus file to the other of the central service computer and the user computer to update the antivirus database" (emphasis added). Hodges discloses that "antivirus update files are received by client computer 302...by central antivirus server 308" and not antivirus update files that are sent from a user computer to a central service computer" (see emphasized excerpt above). The only updating at a server disclosed in Hodges merely relates to updating a subscriber database to reflect that a certain user has received an updated antivirus file (see emphasized excerpt above).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*,947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has included the following claim language in each of the independent claims, which emphasizes the foregoing distinction:

"wherein the central service computer is configured to send the new antivirus file to the user computer to update the virus database, if it is determined that the central service computer contains the new antivirus file not contained within the antivirus database of the user computer;

wherein the user computer is configured to send the new antivirus file to the central service computer to update the virus, if it is determined that the user computer contains the new antivirus file not contained within the antivirus database of the central service computer."

A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

The Examiner's rejections are also deficient with respect to the dependent claims. For example, with respect to dependent Claims 7 and 16, the Examiner has relied on Figure 5b along with the following excerpts et al. from Hodges to make a prior art showing of applicant's claimed "further comprising notifying the central service computer of the new antivirus data file located on the user computer, and the user computer inquiring whether to update the antivirus database with the new antivirus files" (Claim 7) and "further comprising automatically sending the new antivirus file to the central service computer" (Claim 16).

"Once this connection is recognized, the program Antivirus_Update_Agent.exe 522 causes communication with central antivirus server 308 tc commence, wherein antivirus updates are received if the current antivirus files are outdated.

FIG. 5B shows a printout of the directory structure of FIG. 5A except with contents the directory E:.backslash.Program Files.backslash.Antivirus Software.backslash.DAT Signature Files 516 being shown in the right hand window. As shown in FIG. 5B, the exemplary virus signature file VIRUS_SIGNATURES.DAT 524 is contained in the DAT Signature Files directory 516. According to a preferred embodiment, it is the file VIRUS_SIGNATURES.DAT 524 which contains the time-sensitive virus signature information, and which is the file which is most often **updated by central antivirus server** 308." (Col. 8, lines 51-65-emphasis added)

> "The central server used push technology to automatically transmit antivirus software updates..." (Col. 5, line 29)

Again, applicant respectfully asserts that Hodges fails to teach any sort of updating of a central service computer with a new antivirus data file located on a user computer, but instead only teaches updating that is done "by [a] central antivirus server" (see emphasized excerpt above-emphasis added).

With respect to dependent Claims 15 and 19, the Examiner has relied on the following excerpt from Van Huben to make a prior art showing of applicant's claimed "identifying the new antivirus file on the user computer not contained within the antivirus database of the central service computer" (Claim 15) and "wherein comparing the antivirus databases comprising comparing the antivirus databases only if the new antivirus file was received from the antivirus server" (Claim 19).

> "During replication, the data within a client computer's database is compared against the data on the host server and the computer with the oldest copy is updated with the most recent." (Col. 4, lines 29-42)

Applicant respectfully asserts that the above excerpt from Van Huben fails to meet applicant's claim language since Van Huben simply teaches comparing the databases of a host server and a computer and then updating whichever database is older with the database that is newer. Van Huben thus clearly does not meet applicant's claimed "identifying the new antivirus file on the user computer not contained within the antivirus database of the central service computer" (Claim 15), nor applicant's claimed "wherein comparing the antivirus databases comprising comparing the antivirus databases only if the new antivirus file was received from the antivirus server" (Claim 19), since Van Huben does not even suggest the requirement that the databases are only compared "if the new antivirus file was received from the antivirus server" (emphasis added).

Since at least the third element of the *prima facie* case of obviousness has not been met, a notice of allowance or a specific prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 33-37 below, which are added for full consideration:

"wherein after the central service computer is notified of the new antivirus data file located on the user computer, the user computer waits for a request from the central service computer to send the new antivirus data file" (see Claim 33);

"wherein the antivirus databases are compared after the new antivirus file is sent to the user computer if the new antivirus file was not sent from the central service computer" (see Claim 34);

"wherein the databases are compared if the new antivirus file was sent from a server other than the central service computer over the Internet" (see Claim 35);

"wherein the central service computer is at least one of a network server and a resource" (see Claim 36); and

"wherein the user computer is at least one of a local computer and a client computer" (see Claim 37).

Again, a notice of allowance or a specific prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P313/01.051.02).

Respectfully submitted,
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